

DESCRIPTION OF PROPOSAL (continued)

The proposed amendment also contains provisions requiring that the design of the structures used for the retail and personal service uses must be compatible with structures in the vicinity, and a provision clarifying that an age-restricted adult housing “project” qualifying for the retail and personal service uses must include all property on a Sketch Plan, a Record Plat, or property under a common master homeowners association.

2. In the PEC District, certain commercial and personal service uses are permitted as a matter of right, but only on a very limited basis as a maximum four percent of the gross acreage of a PEC development or as a maximum 20 percent of the floor area of an office or research and development building. This provision was devised because it was recognized there is a need for such uses to be close to office developments, and also that such uses must be subordinate to the office development so that the retail and service uses don’t become major attractors of customers from outside the development.

The Petitioner proposes a significant amendment to the Section 116.B. list of uses permitted by right by adding a new use category that would permit all retail and personal service uses that are permitted in the B-1 District, if the PEC-zoned lot is located “...in a planned development containing a minimum of 500 dwelling units.”

The Petitioner explains that the proposed amendment is largely associated with the Waverly Woods development, and it is stated that the reason for the amendment is that although Waverly Woods was originally planned with site plan documentation for a predominantly office-based development, it has, with amendments over time, instead become a largely residential development with a greater need for commercial development.

- # **For the full text of the proposed amendments as submitted by the Petitioner, please refer to Attachment A. (CAPITALS indicates text to be added.)**

II. EXISTING REGULATIONS

- # **Based upon the definition for Age-restricted Adult Housing, such developments currently may provide personal service uses within the development as a matter of right.**

These services must be intended for the use of the residents only, however, and not for others outside the development.

II. EXISTING REGULATIONS (continued)

- # **As noted above, currently Section 116.B.34. of the PEC regulations permits specified commercial and personal service uses by right, but only on a limited basis as a maximum four percent of the gross acreage of a PEC development or as a maximum 20 percent of the floor area of an office or research and development building.**

This is in harmony with the portion of the Purpose statement for the PEC District "...to provide for comprehensively planned employment centers combining research and development, office, light manufacturing and assembly, limited commercial and other enumerated uses."

III. BACKGROUND INFORMATION**A. Scope of Proposed Amendments**

- # **The proposed Amendment No. 1 would be applicable to any Age-restricted Adult Housing development in the POR District that has, or will have, 100 or more dwelling units.**

The Petitioner alludes to the Village Crest adult housing development in the vicinity of the old Taylor Manor Hospital site in its reason statement for this amendment. According to the available Site Development Plan information for the various phases of the Village Crest development, the total number of age-restricted dwelling units approved to date is 435 units. So based on the amendment as proposed with 30,000 square feet of commercial space allowed for each 100 dwelling units, this could lead to a commercial development of 120,000 square feet.

However, the Petitioner notes that nearly 600 dwelling units are planned for Taylor Village (potential 180,000 square feet of commercial space) and over 500 dwelling units are planned for other portions of the development (potential 150,000 square feet of commercial space).

- # **Based upon the way Amendment No. 2 is limited to PEC properties within planned developments covered by a common master homeowners association, with at least 500 dwelling units within the planned development, this amendment is presumed to be limited to the Waverly Woods development at this time, but it might apply to a future development that could meet these criteria.**

B. Agency Comments

- # **The following agencies had no objections to the petition:**

1. Bureau of Environmental Health
2. Department of Fire and Rescue Services
3. Department of Inspections, Licenses and Permits

B. Agency Comments (continued)

- # **The Office on Aging, commenting on proposed Amendment No.1, emphasized that the retail and service uses should not be limited to those that might be associated with the needs of older adults, but should be those uses which would typically serve anyone in the general public.**

IV. EVALUATIONS AND CONCLUSIONS**A. Relation to the General Plan**

- # **It might appear that Amendment No. 1, which would be to allow for some increase in retail and personal service uses within or in close proximity to age-restricted developments, would be supportive of general policies to encourage age-restricted adult housing. However, because the amendment could divert a significant amount of POR property to potentially quite sizeable commercial developments, it is actually contrary to the Balanced and Phased Growth Policy No. 4.3 to “Ensure an adequate housing supply for the elderly, disabled and special populations.”**
- # **The greater Taylor Manor neighborhood is predominantly residential in character. Inserting a shopping center into this neighborhood, which appears to be a potential of Amendment No. 1, would not conform with the Residential Areas land use designation of this neighborhood.**

On a similar basis, Amendment No. 1 is not in harmony with the Community Conservation and Enhancement Policy 5.7 to “Ensure infill development will be compatible with existing neighborhoods”, or with Policy 5.9 to “Allow for the appropriate size, location and purpose of commercial centers.”

- # **Amendment No. 2 is contradictory to the concept of a “planned development”, which it is associated with. Waverly Woods was originally approved as a Zoning Map Amendment with site plan documentation. Over time, the original planned development has been revised with other Zoning Map Amendments; some requiring very close examination on the zoning issues of change and mistake, others such as the PSC District areas along Marriottsville Road, just had to meet the PSC floating zone criteria.**

What the Petitioner is proposing with Amendment No. 2 is somewhat novel. This amendment would allow B-1-equivalent development, without floor area limitations, by right in Waverly Woods. This would relieve such a development from having to meet the change and mistake tests of a piecemeal Zoning Map Amendment to justify the change.

Such a B-1-equivalent development would still need to be approved as an amendment to the Waverly Woods documented site plan, but because the property would remain PEC, this amendment would be evaluated on more easily achievable evaluations centering on compatibility, and not on the considerably more rigorous legal evaluations involved in a Zoning Map Amendment case.

IV. EVALUATIONS AND CONCLUSIONS

A. Relation to the General Plan

- # **For the reasons that Amendment No. 2 would allow by right a B-1-equivalent shopping center of unknown size in Waverly Woods, likely along Marriottsville Road, and would allow this without having to justify the change to the planned development through the rigors of a Zoning Map Amendment case, Amendment No. 2 is also is not in harmony with the Community Conservation and Enhancement Policy 5.7 to “Ensure infill development will be compatible with existing neighborhoods”, and with Policy 5.9 to “Allow for the appropriate size, location and purpose of commercial centers.”**

B. Relation to the Zoning Regulations

- # **The Zoning Regulations, in conjunction with the Zoning Maps, divide the County up into many different zoning districts which have various differences in permitted uses and which have different purposes.**

There are good reasons for this; the differences between the zoning districts provide predictability regarding the likelihood of certain development types, and also better direct development in furthering General Plan goals.

In those districts that intentionally allow for a wide mixture of uses, such as the NT (New Town) District and the MXD (Mixed Use) District, the predictability and character of development is guided and ensured by an overall development plan, and by the more detailed public evaluations given to individual site development proposals.

- # **Both the proposed amendments, would “inject” B-1 uses into the POR and PEC Districts, and although this might appear to be on a limited basis as suggested by the Petitioner, upon a much closer evaluation these proposals appear to have a great potential to create large commercial developments which could have significant impacts never envisioned or intended for POR and PEC areas, or for Waverly Woods in particular for Amendment No. 2.**

The amendments promote a “Map Amendment By Regulation Amendment”, that could be very contrary to one of the most fundamental purposes of the Zoning Regulations “...to guide the future growth and development of the County in accordance with a General Plan which represents the most beneficial and convenient relationships among the residential, non-residential and public areas within the County considering the suitability of each area for such uses...”.

IV. EVALUATIONS AND CONCLUSIONS (continued)**C. Other Issues**

- # **The Department of Planning and Zoning recognizes that there may be very good reasons to better assess whether the current availability of retail and personal service uses is adequate to meet the needs of the people within planned age-restricted developments, and whether some type of regulation change is warranted to allow more future development for those commercial purposes.**

Such an assessment should take place before any regulation change. It is not prudent to allow Amendment No. 1, or something similar, to go forward based only upon the limited justification provided by the Petitioner, and it is clearly not prudent to attempt to “guess” what is the acceptable amount of this type of commercial development by somehow revising Amendment No. 1 during the context of this regulation amendment case.

- # **Amendment No. 2 would significantly alter the “limited commercial” aspect of the PEC District, which is not advised even if limited to a single development. It would be contrary to the intended planned character of Waverly Woods, and it could have wholly unintended but real impacts on existing commercial development both in the Ellicott City area, and in the Waverly Woods village center.**

This amendment is ill-advised, as there is no compelling reason to amend the PEC District regulations as requested. The Department strongly recommends that Amendment No. 2 be denied. The Petitioner always has the option to submit a proposal to rezone a portion of Waverly Woods to the B-1 District, and that would be evaluated on its merits in the context of a piecemeal Zoning Map Amendment case.

- # **Similarly, for the Amendment No. 1 issue, the Petitioner also has the option of a Zoning Map Amendment case to achieve the intended retail and personal service use development to serve the age-restricted neighborhood.**

In such a case, it would be best if there was site plan documentation to allow for a proper evaluation of compatibility with the greater neighborhood in terms of scale and design. A development of reasonable size that would serve the needs of the immediate neighborhood could be appropriate, but this would be difficult to determine without a site plan proposal.

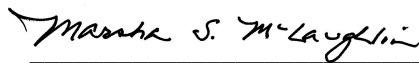
PETITIONER: Taylor Family Limited Partnership A and B

V. RECOMMENDATION

DENIAL of Amendment No. 1, but consideration should be given to further study of whether current commercial and service levels will be adequate to serve future levels of age-restricted housing.

DENIAL of Amendment No. 2

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-88 as noted above, be **DENIED**.



Marsha S. McLaughlin, Director

09/18/07

Date

MM/JRL/jrl

NOTE: The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.